



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Appln. No.: 10/730,143
Applicant: Kouta Fukui
Filed: December 9, 2003
Title: PHOTOTHERMOGRAPHIC MATERIAL
Art Unit: 1752
Examiner: Thorl Chea
Docket No.: FS-F03215-01

Confirmation No: 5961

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.37, Appellant submits the following:

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I. REAL PARTY IN INTEREST

The real party in interest for the above-identified patent application on appeal is Fuji Photo Film, Co., Ltd. of Japan, the assignee. The assignment was previously submitted and was recorded on December 9, 2003 at Reel 014791, Frame 0272.

II. RELATED APPEALS AND INTERFERENCES

To the knowledge and belief of Appellant, the Assignee, and the Appellant's legal representative, there are no other appeals or interferences before the Board of Appeals and Interferences that will directly affect or be affected by the Board's decision in the instant Appeal.

III. STATUS OF CLAIMS

Claims 1-5 and 8-10 will be all of the pending claims in the present application upon entry of the Amendment under 37 C.F.R. § 1.116 filed concurrently with the present Appeal Brief. In that Amendment, claims 11-19 have been cancelled.

All pending claims (claims 1-5 and 8-10) stand finally rejected.

Based on the Office Action of September 26, 2005, claims 1, 3-5 and 8-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Toya et al. (U.S. Patent No. 5,998,126; hereinafter referred to as "Toya '126"), Siga et al. (U.S. Patent No. 4,332,889; hereinafter referred to as "Siga"), Matsumoto et al. (U.S. Patent No. 5,958,668; hereinafter referred to as "Matsumoto"), Suzuki et al. (U.S. Patent No. 4,211,839; hereinafter referred to as "Suzuki") and EP 1096310 (hereinafter referred to as "EP '310").

Claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Toya '126, Siga, Matsumoto, Suzuki and EP '310 as applied to claims 1, 3-5 and 8-10 above and further in view of Toya et al. (U.S. Patent No. 5,656,419; hereinafter referred to as "Toya '419").

No other ground of rejection or objection is currently pending.

A copy of the claims on appeal is set forth in an attached Appendix.

IV. STATUS OF AMENDMENTS

An Amendment under 37 C.F.R. § 1.116 is being filed concurrently with this Appeal Brief. In the Amendment, claims 11-19 have been cancelled without prejudice or disclaimer. Claims 1-5 and 8-10 will be all of the pending claims in the present application upon entry of the Amendment.

A copy of the claims on appeal is set forth in an attached Appendix.

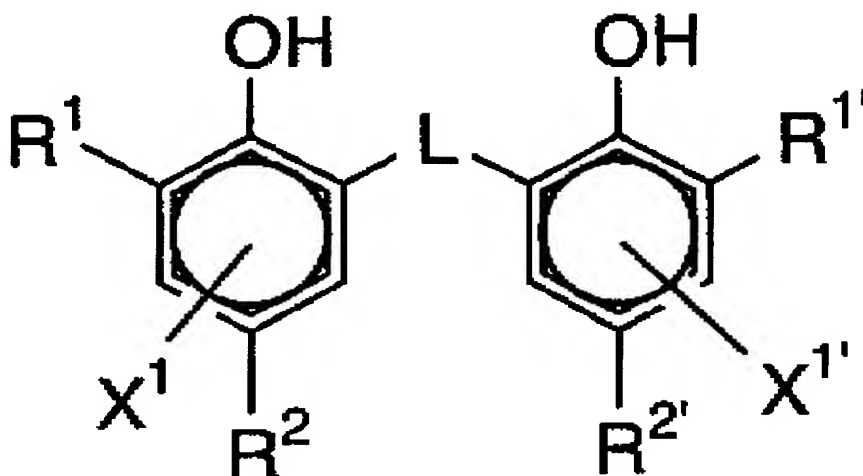
V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The summary of the invention on Appeal is provided as follows:

The present invention recited in independent claim 1 generally relates to a photothermographic material. More specifically, the invention relates to a photothermographic material suited for medical diagnosis applications (see page 1, lines 8-10).

The invention recited in independent claim 1 is a photothermographic material comprising a photosensitive silver halide, a non-photosensitive organic silver salt, a reducing agent, and a binder on at least one surface of a support (page 9, lines 9-12). Silver iodide is contained in the photosensitive silver halide in an amount of 40 % to 100 % by mole (page 45, lines 21-23). The photothermographic material employs two kinds of specific orthobisphenol reducing agent represented by formulas (R-1) and (R-2) together or (R-1) and (R-3) together (page 13, lines 2-4). By using the specific orthobisphenol reducing agents of this invention in combination, a photothermographic material is obtained which exhibits an excellent silver image with both high sensitivity and pure black tone; such a material is not obtained using only the reducing agent represented by formula (R-1).

Formula (R-1) is represented by the following chemical formula.

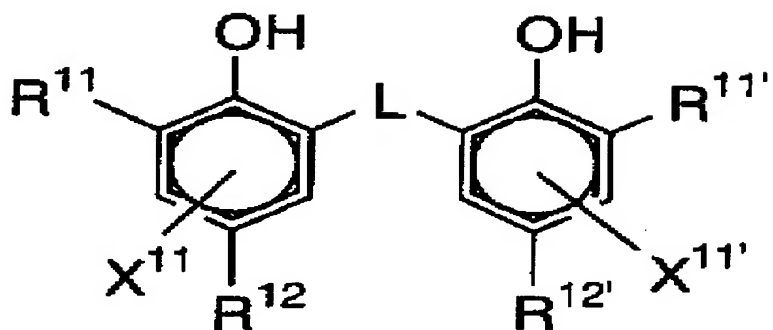


Formula (R-1)

In formula (R-1), R^1 and $R^{1'}$ each independently represent an alkyl group having 3 to 20 carbon atoms, in which a carbon atom bonding to the benzene ring is secondary or tertiary; R^2 and $R^{2'}$ each represent a methyl group; L represents an -S- group or a -CHR³- group, in which R³ represents a hydrogen atom or an alkyl group having 1 to 20 carbon atoms; and X¹ and X^{1'} each independently represent a hydrogen atom or a group capable of being substituted on the benzene ring (page 13, line 10 to page 17).

Formula (R-2) is represented by the following chemical formula.

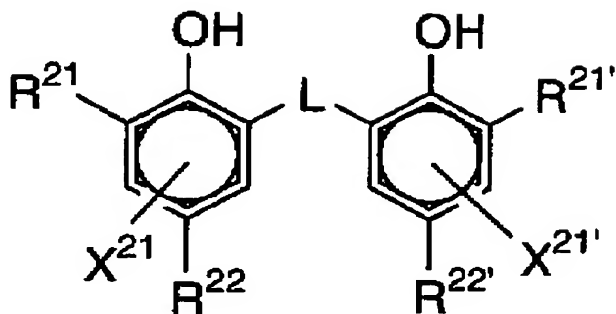
Formula (R-2)



In formula (R-2), R¹¹ and R^{11'} each independently represent an alkyl group having 3 to 20 carbon atoms, in which a carbon atom bonding to the benzene ring is secondary or tertiary; R¹² and R^{12'} each independently represent an alkyl group having 2 to 20 carbon atoms; L represents an -S- group or a -CHR¹³- group, in which R¹³ represents a hydrogen atom or an alkyl group having 1 to 20 carbon atoms; and X¹¹ and X^{11'} each independently represent a hydrogen atom or a group capable of being substituted on the benzene ring (page 18, line 1 to page 20).

Formula (R-3) is represented by the following chemical formula.

Formula (R-3)



In formula (R-3), R²¹ and R^{21'} each independently represent a methyl group or an alkyl group having 2 to 20 carbon atoms, in which a carbon atom bonding to the benzene ring is primary; R²² and R^{22'} each independently represent an alkyl group having 1 to 20 carbon atoms; L represents an -S- group or a -CHR²³- group, in which R²³ represents a hydrogen atom or an alkyl group having 1 to 20 carbon atoms; and X²¹ and X^{21'} each independently represent a hydrogen atom or a group capable of being substituted on the benzene ring (page 21, line 1 to page 24).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1, 3-5 and 8-10 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Toya '126, Siga, Matsumoto, Suzuki and EP '310.

2. Claim 2 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Toya '126, Siga, Matsumoto, Suzuki and EP '310 as applied to claims 1, 3-5 and 8-10 above and further in view of Toya '419.

VII. ARGUMENT

A. The Applicable Law

35 U.S.C. § 103(a)

The Court of Appeals for the Federal Circuit has held that the legal determination of an obviousness rejection under 35 U.S.C. § 103 is:

whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made The foundation facts from the *prima facie* case of obviousness are: (1) the scope and content of the prior art; (2) the difference between the prior art and the claimed invention; and (3) the level of ordinary skill in the art Moreover, objective indicia such as commercial success and long felt need are relevant to the determination of obviousness Thus, each obviousness determination rests on its own facts.

In re Mayne, 41 U.S.P.Q. 2d 1451, 1453 (Fed. Cir. 1997).

In making this determination, the Patent Office has the initial burden of proving a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q. 2d 1955, 1956 (Fed. Cir. 1993). "The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." *In re Fritch*, 23 U.S.P.Q. 2d 1780, 1783-84 (Fed. Cir. 1992).

Further, the Federal Circuit has held that it is "impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." *In re Fritch*, 23 U.S.P.Q. 2d 1780, 1784 (Fed. Cir. 1992). "One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fine*, 837 F. 2d 1071 at 1075 (Fed. Cir. 1988).

Moreover, the Federal Circuit has held that "obvious to try" is not the standard under 35 U.S.C. § 103. *Ex parte Goldgaber*, 41 U.S.P.Q. 2d 1172, 1177 (Fed. Cir. 1996). "An obvious-to-try situation exists when a general disclosure may pique the scientist curiosity, such that further investigation might be done as a result of the disclosure, but the disclosure itself does not contain a sufficient teaching of how to obtain the desired result, or that the claim result would be obtained if certain directions were pursued." *In re Eli Lilly and Co.*, 14 U.S.P.Q. 2d 1741, 1742 (Fed. Cir. 1990).

"If the examination at the initial stage does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of the patent." *In re Oetiker*, 24 U.S.P.Q. 2d 1443, 1444 (Fed. Cir. 1992).

B. The Rejection of Claims 1, 3-5 and 8-10 under 35 U.S.C. § 103(a) Should Be Reversed Because the Patent Office Has Failed to Overcome its *Prima Facie* Burden

Claims 1, 3-5 and 8-10 have been rejected under 35 U.S.C. § 103(a) over the combination of Toya '126, Siga, Matsumoto, Suzuki and EP '310.

One of the problems with the Examiner's rejection is that none of the cited references teach or suggest the use of two different orthobisphenol reducing agents in combination as specifically recited in claim 1 of the present application. The relevant teachings of the cited references are set forth below, with specific discussion of plural reducing agents (or their absence) appearing with underlining.

Toya '126 relates to a photothermographic material comprising a photosensitive silver halide emulsion layer on a support (abstract). The photosensitive silver halide is preferably

silver iodobromide having a silver iodide content of 0.1 to 40 mol%, especially 0.1 to 20 mol% (column 16, lines 50-57). Examples of a reducing agent to be contained in the photothermographic material include bisphenols such as bis(2-hydroxy-3-t-butyl-5-methylphenyl)methane, 2,2-bis(4-hydroxy-3-methylphenyl)propane, 4,4-ethylidene-bis(2-t-butyl-6-methylphenol), 1,1-bis(2-hydroxy-3,5-dimethyl-phenyl)-3,5,5-trimethylhexane, and 2,2-bis(3,5-dimethyl-4-hydroxyphenyl)propane (column 22, lines 20-25). However, Toya '126 neither refers to the use of plural reducing agents in any combination, nor suggests unexpected and superior results in color tone and sensitivity achieved by using the specific reducing agents recited in the present claim 1.

Siga relates to a heat-activatable and heat-developable dry image forming material comprising: (a) a silver salt of long chain fatty acid, (b) a reducing agent for silver ions, (c) a silver halide component including silver iodide or a silver halide-forming component including silver iodide-forming compound, (d) an oxidizing agent for free silver, (e) a photoreactive halogeno oxidizing agent, (f) a binder, and (g) a specific spectral sensitizing dye (abstract). Silver iodide may be contained in the (c) silver halide component in an amount of at least 30 mole%, more preferably 50 mole% based on the silver halide component (column 6, lines 43-52). However, Siga is silent about the use of plural reducing agents in combination.

Matsumoto relates to a recording medium comprising a support having thereon a recording layer comprising an organic silver salt, a developing agent for the organic silver salt, a water-soluble binder and an antifoggant in an amount of from 10 mol % to 40 mol % based on the organic silver salt (abstract). Examples of a reducing agent include a compound represented by a chemical formula that falls within the scope of the formula (R-1) of the present claim 1

(column 18). However, Matsumoto is totally silent about the use of any plural reducing agents in combination.

Suzuki relates to a method for producing a composition to be used in thermally developable light-sensitive photographic elements, comprising mixing: (a) an organic silver salt and (b) a light-sensitive silver halide, and (c) a reducing agent wherein (b) is prepared by allowing a light-sensitive silver halide-yielding component to react with (a) in the presence of (d) an imino compound (abstract). Suzuki refers to as a specific example the use of two reducing agents in mixture, namely 2,4-dialkyl substituted orthobisphenols and 2,6-dialkyl substituted parabisphenols (column 15, lines 35-37). However, this combination does not correspond to the combination recited in the present claim 1. This is because Suzuki discloses a mixture of orthobisphenol and parabisphenol while the present invention claims the combination of two orthobisphenols, namely (R-1) and (R-2) together, or (R-1) and (R-3) together.

Suzuki also refers to the use of various reducing agents in combination, and Japanese Patent Application (OPI) No. 115540/74, and U.S. Patent Nos. 3,667,958 and 3,751,249 are mentioned as referring to examples using two reducing agents in combination (column 16, lines 35-39). Appellant has carefully reviewed the disclosure of these three documents referenced in Suzuki, and found that none of these documents disclose the specific combination recited in the present claim 1, namely (R-1) and (R-2) together, or (R-1) and (R-3) together. Japanese Patent Application (OPI) No. 115540/74 discloses a number of specific examples of a reducing agent, and generally teaches that those reducing agents may be used in combination. However, the document neither discloses nor suggests the specific combination of (R-1) and (R-2) together, or (R-1) and (R-3) together. U.S. Patent No. 3,667,958 only discloses hydroquinone reducing

agents, which are entirely different from the reducing agent of the present invention, namely two orthobisphenol reducing agents in combination. U.S. Patent No. 3,751,249 only discloses the use of bis- β -naphthol reducing agent and 1,3-dihydroxybenzene reducing agent in combination, which is totally distinct from the combination of two orthobisphenol reducing agents as recited in the present invention.

EP '310 relates to a photothermographic material comprising, on one side of a support, a photosensitive silver halide, a non-photosensitive silver salt of an organic acid, a reducing agent for silver ions and a binder, the material containing one or more phenol compounds as the reducing agent (abstract). Although EP '310 refers to the use of bisphenols in page 6-10, it neither teaches nor suggests the use of bisphenols in any combination.

As shown above, the Examiner has rejected claims 1, 3-5 and 8-10 over references that do not teach or suggest the use of two different orthobisphenols in combination specifically recited in the present claim 1.

Moreover, these references do not refer to unexpected and superior results obtained by the use of the present invention, namely high sensitivity and excellent tone (pure black image). The unexpected and superior results obtained by the use of specific orthobisphenol reducing agents in combination as recited in the present claim 1 are explicitly shown in the photographic performance data in Table 1 of the specification (page 229). In Table 1, Experiment No. 5 employs two kinds of specific orthobisphenol reducing agents that fall within the scope of (R-1) and (R-3). Experiment No. 6 employs two kinds of specific orthobisphenol reducing agents that fall within the scope of (R-1) and (R-2). Whereas the results in sensitivity of Experiment Nos. 5

and 6 are comparable to the result of Experiment No. 4 where only one kind of reducing agent (R-1) is used, Experiment Nos. 5 and 6 show unexpectedly superior results in color tone (good balance in color tone, and pure black tone) over Experiment No. 4 which exhibits slightly bluish color tone (Table 1; also see page 227, line 12 to page 228 line 3 for criteria of color tone evaluation). In sum, experiments which employ two kinds of specific orthobisphenol reducing agents that fall within the scope recited in claim 1 exhibit unexpectedly better color tone (pure black tone) while maintaining high sensitivity, compared to experiment which uses only one kind of reducing agent.

Furthermore, in Table 1, Experiment No. 8 employs two kinds of specific orthobisphenol reducing agents that fall within the scope of (R-1) and (R-3). Experiment No. 9 employs two kinds of specific orthobisphenol reducing agents that fall within the scope of (R-1) and (R-2). Whereas the results in color tone of Experiment Nos. 8 and 9 are comparable to the result of Experiment No. 7 where only one kind of reducing agent (R-1) is used, Experiment Nos. 8 and 9 show unexpectedly superior results in sensitivity (116 and 115 respectively) over Experiment No. 7 which exhibits sensitivity of 103 (Table 1; also see page 226, line 15 to page 227 line 5 for criteria of sensitivity evaluation). In sum, experiments which employ two kinds of specific orthobisphenol reducing agents that fall within the scope recited in claim 1 exhibit unexpectedly better sensitivity while maintaining good balance in color tone (pure black tone), compared to experiments which uses only one kind of reducing agent.

To summarize, it is respectfully submitted that none of the above combinations of references cited by the Examiner renders any of the pending claims obvious. The invention of

the present application is a photothermographic material which uses specific orthobisphenol reducing agents represented by formulas (R-1) and (R-2) together or (R-1) and (R-3) together. By using the specific orthobisphenol reducing agents of this invention together, a photothermographic material is obtained which exhibits an excellent silver image with both high sensitivity and pure black tone; such a material is not obtained using only the reducing agent represented by formula (R-1). None of the references disclose or suggest obtaining such a material exhibiting both high sensitivity and good balance in color tone by using two reducing agents recited in the present claim 1 in combination.

Further, there is no teaching or suggestion to combine the references to obtain the combination of a silver iodide-based photothermographic material with the specific combination of orthobisphenols of the present invention. Instead, it is respectfully submitted that the Examiner has used impermissible hindsight to "pick and choose" individual components of the claimed invention from a wide variety of references in order to "recreate" the claimed invention. Thus it is submitted that a *prima facie* case of obviousness has not been made.

C. The Rejection of Claim 2 under 35 U.S.C. § 103(a) Should Be Reversed Because the Patent Office Has Failed to Overcome its *Prima Facie* Burden

Claim 2 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Toya '126, Siga, Matsumoto, Suzuki, EP '310 and Toya '419. Claim 2 should be deemed allowable by virtue of its dependency to claim 1 which should be allowable for the reasons set forth above.

Toyo '419 relates to a heat-developable photographic light-sensitive material which can give a high contrast image (abstract). However, Toyo '419 does not cure the deficiencies of the other references listed in the rejection of claims 1, 3-5 and 8-10.

VIII. CONCLUSION

Appellant submits that the Patent Office has failed to overcome its *prima facie* burden with respect to the rejections of claims 1-5 and 8-10 under 35 U.S.C. § 103(a). Accordingly, Appellant respectfully submits that the rejections of the pending claims are erroneous in law and in fact and should therefore be reversed by this Board.

Respectfully submitted,

A handwritten signature in black ink, reading "Sheldon J. Moss". The signature is written in a cursive, flowing style. The first name "Sheldon" is written in a larger, more prominent script, and "J. Moss" follows in a similar but slightly smaller script. The signature is positioned above a horizontal line.

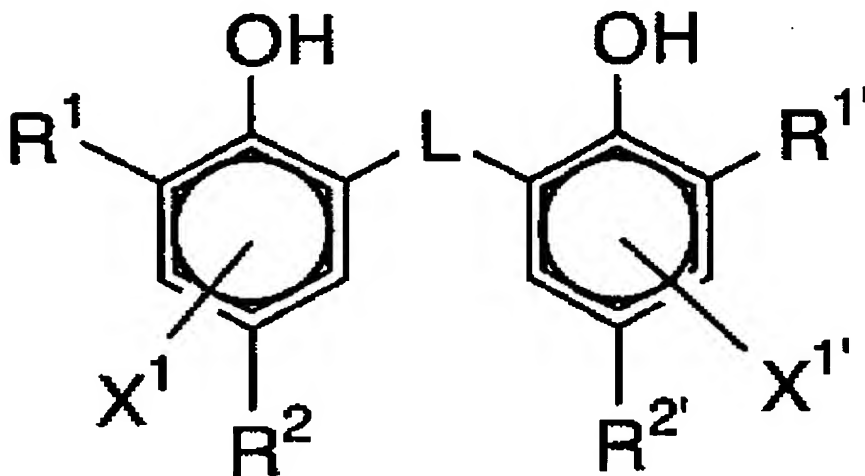
Sheldon J. Moss
Reg. No. 52,053

Taiyo, Nakajima & Kato
401 Holland Lane, Suite 407
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April 13, 2006

CLAIMS APPENDIX

CLAIMS 1-5 and 8-10 ON APPEAL:

1. A photothermographic material comprising a photosensitive silver halide, a non-photosensitive organic silver salt, a reducing agent, and a binder on at least one surface of a support, wherein silver iodide is contained in the photosensitive silver halide in an amount of 40 % to 100 % by mole, and the reducing agent contains a compound represented by the following formula (R-1):

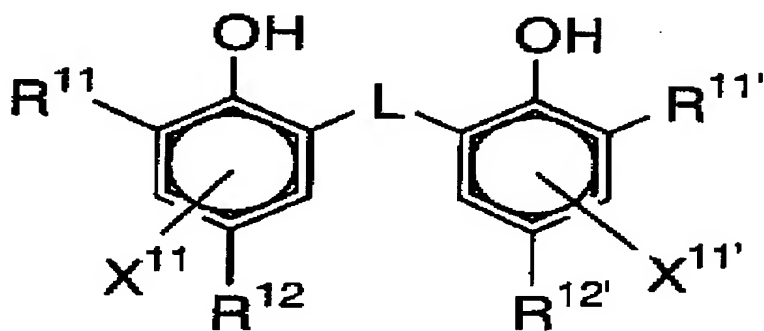


Formula (R-1)

wherein R^1 and $R^{1'}$ each independently represent an alkyl group having 3 to 20 carbon atoms, in which a carbon atom bonding to the benzene ring is secondary or tertiary; R^2 and $R^{2'}$ each represent a methyl group; L represents an -S- group or a -CHR³- group, in which R^3 represents a hydrogen atom or an alkyl group having 1 to 20 carbon atoms; and X^1 and $X^{1'}$ each independently represent a hydrogen atom or a group capable of being substituted on the benzene ring; and

the reducing agent includes a second compound selected from formula (R-2) or from formula (R-3)

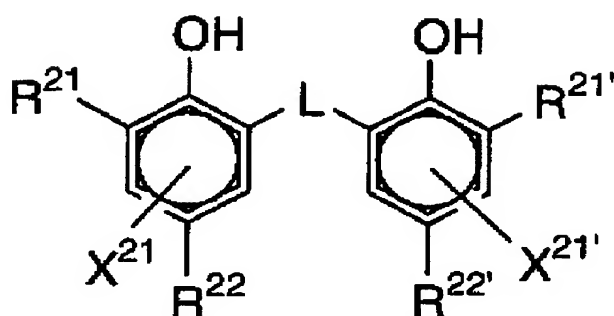
Formula (R-2)



wherein R^{11} and $R^{11'}$ each independently represent an alkyl group having 3 to 20 carbon atoms, in which a carbon atom bonding to the benzene ring is secondary or tertiary; R^{12} and $R^{12'}$ each independently represent an alkyl group having 2 to 20 carbon atoms; L represents an -S- group or a -CHR¹³- group, in which R^{13} represents a hydrogen atom or an alkyl group having 1 to 20

carbon atoms; and X^{11} and $X^{11'}$ each independently represent a hydrogen atom or a group capable of being substituted on the benzene ring;

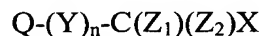
Formula (R-3)



wherein R^{21} and $R^{21'}$ each independently represent a methyl group or an alkyl group having 2 to 20 carbon atoms, in which a carbon atom bonding to the benzene ring is primary; R^{22} and $R^{22'}$ each independently represent an alkyl group having 1 to 20 carbon atoms; L represents an $-S-$ group or a $-CHR^{23}-$ group, in which R^{23} represents a hydrogen atom or an alkyl group having 1 to 20 carbon atoms; and X^{21} and $X^{21'}$ each independently represent a hydrogen atom or a group capable of being substituted on the benzene ring.

2. The photothermographic material of claim 1, further comprising a compound represented by the following formula (H):

Formula (H)



wherein Q represents an alkyl group, an aryl group, or a heterocyclic group; Y represents a divalent connecting group; n represents 0 or 1; Z₁ and Z₂ each represent a halogen atom; and X represents a hydrogen atom or an electron withdrawing group.

3. The photothermographic material of claim 1, wherein the silver iodide is contained in the photosensitive silver halide in an amount of 90 % to 100 % by mole.

4. The photothermographic material of claim 1, wherein the photosensitive silver halide has a mean grain size of 5 nm to 80 nm.

5. The photothermographic material of claim 1, wherein the photosensitive silver halide has a mean grain size of 5 nm to 40 nm.

6. (cancelled)

7. (cancelled)

8. The photothermographic material of claim 1, which is exposed with laser light.

9. The photothermographic material of claim 8, wherein the laser light has a light emission peak intensity in a range of 390 nm to 430 nm.

10. The photothermographic material of claim 1, wherein a characteristic curve of the photothermographic material has a gamma in a range of 2 to 5.

Claims 11-19 (cancelled.)

APPEAL BRIEF UNDER 37 C.F.R. § 41.37
Application No.: 10/730,143

Attorney Docket No.: FS-F03215-01

EVIDENCE APPENDIX

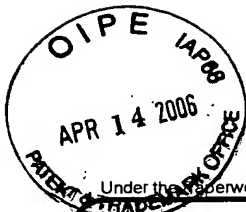
None.

APPEAL BRIEF UNDER 37 C.F.R. § 41.37
Application No.: 10/730,143

Attorney Docket No.: FS-F03215-01

RELATED PROCEEDINGS APPENDIX

None.



PTO/SB/17 (01-06)
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Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL For FY 2006

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 500.00

Complete if Known

Application Number	10/730,143
Filing Date	December 9, 2003
First Named Inventor	Kouta Fukui
Examiner Name	Thorl Chea
Art Unit	1752
Attorney Docket No.	FS-F03215-01

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____
☒ Deposit Account Deposit Account Number: 501322 Deposit Account Name: TAIYO, NAKAJIMA & KATO

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

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FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
Total Claims		
Extra Claims		
Fee (\$)		
Fee Paid (\$)		
HP = highest number of total claims paid for, if greater than 20.		
Indep. Claims		
Extra Claims		
Fee (\$)		
Fee Paid (\$)		
HP = highest number of independent claims paid for, if greater than 3.		

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets - 100 = Extra Sheets / 50 = Number of each additional 50 or fraction thereof Fee (\$)

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount) Fees Paid (\$)
Other (e.g., late filing surcharge): Filing a brief in support of an appeal 500.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 52,053	Telephone 703-838-8013
Name (Print/Type)	Sheldon J. Moss	Date	April 13, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.